



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**MINDA S. GAERLAN,**  
Petitioner,

**G.R. No. 192717**

Present:

SERENO, C.J.,  
*Chairperson,*  
LEONARDO-DE CASTRO,  
BERSAMIN,  
VILLARAMA, JR., and  
REYES, JJ.

- versus -

**REPUBLIC OF THE PHILIPPINES,**  
Respondent.

Promulgated:

**MAR 12 2014**

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**DECISION**

**VILLARAMA, JR., J.:**

Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking to annul and set aside the Decision<sup>1</sup> dated March 11, 2010 and the Resolution<sup>2</sup> dated May 20, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 00319-MIN. The CA had reversed and set aside the Judgment<sup>3</sup> of the Regional Trial Court (RTC) of Misamis Oriental, Branch 20, in LRC No. 92-05 and dismissed the application for registration of title filed by petitioner Minda S. Gaerlan.

The records bear out the following factual antecedents:

On April 10, 1992, petitioner filed an Application<sup>4</sup> for original registration of title over a parcel of land known as Lot 18793, Cad-237 of Cagayan Cadastre, with an area of 1,061 square meters, more or less, and particularly described as follows:

<sup>1</sup> *Rollo*, pp. 29-35. Penned by Associate Justice Edgardo T. Lloren with Associate Justices Romulo V. Borja and Angelita A. Gacutan concurring.

<sup>2</sup> *Id.* at 43-44.

<sup>3</sup> *Records*, pp. 254-256. Penned by Judge Gregorio D. Pantanosas, Jr. The RTC decision was rendered on November 20, 2001.

<sup>4</sup> *Id.* at 1-4.

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A parcel of land situated at Patag, Cagayan de Oro City. Bounded on the North, by Lot 835, Cag. Cad; on the East, by Lot No. 4342-A of Subd. Plan; on the South, by Lot 4342-K of Subd. Plan; and on the West, by lot 4342-C of Subd. Plan with an area of ONE THOUSAND SIXTY ONE (1,061) SQUARE METERS more or less (Lot 4342-B – Sketch Plan).<sup>5</sup>

In her application, petitioner alleged that she acquired the above-mentioned property from Mamerta Tan in November 1989 by virtue of a Deed of Absolute Sale of Unregistered Land.<sup>6</sup> She had the property declared for taxation purposes under her name and was issued Tax Declaration Nos. 99893<sup>7</sup> and 058351.<sup>8</sup> Attached to the application are the following documents:

- (a) Original Tracing Cloth Plan together with the three (3) Blue print copies;<sup>9</sup>
- (b) Technical Description of the parcel of land;<sup>10</sup>
- (c) Surveyor's Report of Survey or Surveyor's Certificate;<sup>11</sup>
- (d) Deed of Absolute Sale of Unregistered Land;<sup>12</sup> and
- (e) Tax Declaration No. 99893.<sup>13</sup>

After finding petitioner's application sufficient in form and substance, the trial court set the case for initial hearing.

On August 25, 1992, the Republic of the Philippines, through the Office of the Solicitor General (OSG), filed an Opposition<sup>14</sup> to petitioner's application for registration on the ground that (1) neither petitioner nor her predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the subject land since June 12, 1945 or earlier; (2) the muniments of title and tax declarations attached to the petition do not constitute competent and sufficient evidence of a *bona fide* acquisition of the subject land; (3) the claim of ownership based on Spanish title is no longer available for purposes of registration; and (4) the subject land is a portion of the public domain, hence, not registrable.

During the hearing, petitioner testified that (1) she is the applicant for registration of a parcel of land located at Buenavista Village, Carmen, Patag, Cagayan de Oro City, known as Lot 18793, Cad-237, Cagayan Cadastre, containing an area of 1,061 square meters; (2) that she acquired said land through sale on November 28, 1989 from Mamerta Tan; (3) that after the sale, she declared the property for taxation purposes under her name; (4) that

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<sup>5</sup> Id. at 1.

<sup>6</sup> Id. at 8-9.

<sup>7</sup> Id. at 10.

<sup>8</sup> Id. at 241.

<sup>9</sup> Id. at 2, 5.

<sup>10</sup> Id. at 6.

<sup>11</sup> Id. at 7.

<sup>12</sup> Supra note 6.

<sup>13</sup> Supra note 7.

<sup>14</sup> Id. at 44-45.

she was issued Tax Declaration Nos. 99893 and 058351; (5) that she has been religiously paying taxes thereon since 1989 up to 1991; and (6) that she took possession of the land and caused its survey.<sup>15</sup>

Petitioner also presented Mamerta Tan who testified that she is the vendor of the land subject of the present application and that she sold the land to petitioner in 1989. Mamerta averred that she became the owner of the said property in 1975 after she bought the land from Teresita Tan. She declared the property under her name for taxation purposes under Tax Declaration No. 36942.<sup>16</sup>

Another witness, Mr. Honesto Velez, the City Assessor of Cagayan de Oro City, testified that he issued certifications or certified copies of records on file in his office and he identified the certified photocopy of the Land History Card<sup>17</sup> pertaining to Cadastral Lot 4342, Case No. 4 situated at Patag, Cagayan de Oro City under the name of cadastral claimant Potenciano Abragan. The history card started with Tax Declaration No. 1645 in the name of Potenciano Abragan. Later, another tax declaration, Tax Declaration No. 37129 in the name of Presentacion Eviota, was issued. This tax declaration was subsequently replaced by Tax Declaration No. 37130. He stated that based on the records in their office, it appeared that petitioner is the owner of Lot 4342. Another claimant is Presentacion Eviota and the remaining portion was in the name of Potenciano Abragan. Presentacion Eviota was also issued a tax declaration, Tax Declaration No. 124750 covering an area of 897 square meters, but not involving the same parcel of land. Eviota's land was only a portion of Lot 4342. The original area of the land claimed by Abragan is 12,293 square meters.<sup>18</sup>

City Assessor Velez further testified that their records showed that petitioner possessed a 1,061-square meter portion of Lot 4342 covered by Tax Declaration No. 058351. All the transfers made over portions of this parcel of land were all recorded in the land history card on file with their office, thus paving the way for the issuance of corresponding tax declaration to its new owners.<sup>19</sup>

Petitioner also presented and offered the following exhibits<sup>20</sup> to support her application for registration of title, to wit:

- 1) Deed of Absolute Sale of Unregistered Land,
- 2) Tax Declaration Nos. 99893 and 058351,
- 3) Tax Receipts,
- 4) Certified True Copy of Land History Card,
- 5) Tax Declaration in the name of Potenciano Abragan,

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<sup>15</sup> Id. at 255.

<sup>16</sup> Id.

<sup>17</sup> Id. at 249. Exhibit "T".

<sup>18</sup> Id. at 255-256.

<sup>19</sup> Id. at 256.

<sup>20</sup> Id. at 238-252.

- 6) Tax Declaration in the name of Presentacion T. Eviota,
- 7) Tax Declaration in the name of Potenciano Abragan.

On November 20, 2001, the trial court rendered Judgment<sup>21</sup> granting petitioner's application for registration of title. The dispositive portion of the decision reads:

There being no evidence presented by the oppositor, JUDGMENT is hereby rendered finding applicant Minda S. Gaerlan as owner in fee simple of the land subject of this application and hereby decreeing that Lot 18793, Cad-237, Cagayan Cadastre, containing an area of One Thousand Sixty One (1,061) square meters, more or less, be registered in her name [in] accordance with the technical description attached to the application.

SO ORDERED.<sup>22</sup>

The Republic, through the OSG, appealed from the aforementioned decision asserting that the trial court erred in ruling that the subject parcel of land is available for private appropriation. The appeal was docketed as CA-G.R. CV No. 00319-MIN.

On March 11, 2010, the CA rendered a Decision<sup>23</sup> reversing and setting aside the ruling of the trial court and dismissing the application for registration of title filed by petitioner.

The CA found that petitioner failed to present any proof to establish that the subject land is alienable and disposable. The CA stressed that the applicant for land registration must prove that the Department of Environment and Natural Resources (DENR) Secretary had approved the land classification and released the land of the public domain as alienable and disposable and that the land subject of the application falls within the approved area per verification through survey by the Provincial Environment and Natural Resources Offices (PENRO) or Community Environment and Natural Resources Offices (CENRO). In addition, the CA held that the applicant must present a copy of the original classification approved by the DENR Secretary and certified as true copy by the legal custodian of the official records. Moreover, the CA observed that there is no evidence on record to establish that petitioner, by herself or through her predecessors-in-interest, had been in open, continuous, exclusive and notorious possession and occupation of the subject land and that she possessed the subject land since June 12, 1945 or earlier. Thus, the appellate court ruled that petitioner is not entitled to registration under Section 14(1) of Presidential Decree (P.D.) No. 1529.<sup>24</sup>

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<sup>21</sup> Supra note 3.

<sup>22</sup> Id. at 256.

<sup>23</sup> Supra note 1.

<sup>24</sup> PROPERTY REGISTRATION DECREE. Sec. 14(1) provides,

SEC. 14. *Who may apply.* — The following persons may file in the proper Court of First Instance [now Regional Trial Court] an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

Hence, petitioner is now before us claiming that the CA erred in denying her application for registration of title.

Petitioner asserts that her predecessor-in-interest, Potenciano Abragan, possessed the subject property as early as 1929. She claims Potenciano was the one who asked for the original survey of Lot 4342, Cad-237 with an original land area of 12,293 square meters, situated in Patag, Cagayan de Oro City. She averred that the property subject of the present application consisting of an area of 1,061 square meters and known as Lot 18793, Cad-237, is a portion of Lot 4342, Cad-237. In support of her claim, petitioner seeks to submit as additional evidence Bureau of Lands (BL) Form No. 700-2A<sup>25</sup> of the Land Management Services which conducted a survey on Lot 4342, Cad-237 on November 28, 1929 with Potenciano Abragan as the Cadastral Survey Claimant.

Petitioner also maintains that the subject land is alienable and disposable land of the public domain and this land classification has long been approved by the DENR Secretary. She points out that during the entire period of possession of Potenciano Abragan, the subject land had already been classified as alienable and disposable land. To support her claim, petitioner submits as additional evidence the Certification<sup>26</sup> issued by the CENRO stating that a parcel of land designated as Lot 4342, Cad-237 located in Patag, Cagayan de Oro City containing a total area of 12,293 square meters more or less falls within an area classified as Alienable and Disposable under Project 8, Block I and Land Classification (LC) Map No. 585 certified and approved on December 31, 1925. She prays that she be allowed with leave of court to submit the aforementioned document in support of her application for registration.

Furthermore, petitioner claims that she and her witnesses had testified on the issue of actual, open, continuous, exclusive and notorious possession and occupation of the subject land, including the act of declaring the subject lot for tax purposes in their names and religiously paying the taxes of the land to the government. Thus, petitioner argues that the CA erred in not declaring that she is entitled to registration of the subject land.

Respondent, through the OSG, filed a Comment<sup>27</sup> asserting that only questions of law may be raised in a petition filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended. Respondent posits that in the present case, petitioner, for the first time and only in the present appeal, seeks the admission to evidence of the following: (1) the Certification dated July 16, 2010 issued by the CENRO in Cagayan de Oro City to prove that Lot 4342, Cad-237 located in Patag, Cagayan de Oro City falls within the alienable and disposable area under Project No. 8, Block I and LC Map No. 585 which was certified and approved on December 31, 1925 and (2) BL Form No.

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<sup>25</sup> *Rollo*, p. 46, Annex E.

<sup>26</sup> *Id.* at 47, Annex F.

<sup>27</sup> *Id.* at 61-75.

700-2A which shows that Potenciano Abragan was the original claimant of the entire land denominated as Lot 4342 since 1929, to prove her supposed acquisitive prescription of the contested lot.

Respondent argues that petitioner's attempt to introduce additional evidence is impermissible as its introduction would involve a review and assessment of the evidence on record. Respondent adds that the determination of the probative value of evidence is a question of fact which is beyond the province of a petition for review on certiorari. Petitioner should have offered the aforementioned documents before the land registration court and while the case was pending appeal before the CA as it is an appellate court with authority to receive evidence.

Moreover, respondent points out that BL Form No. 700-2A submitted by petitioner named Potenciano Abragan as the original claimant of the entire area known as Lot 4342 but the same document does not show that petitioner is likewise a claimant of a part of Lot 4342 or that she derived title to the lot in question from Potenciano Abragan. Petitioner's possession only started in 1989 when she acquired the lot from Mamerta Tan who in turn acquired the lot from Teresita Tan. But there is no clear evidence showing how, when and from whom Teresita Tan acquired the subject lot.

Respondent cites the rule that the applicant for registration must be able to establish by evidence that he and his predecessor-in-interest have exercised acts of dominion over the lot under a *bona fide* claim of ownership since June 12, 1945 or earlier. It is respondent's contention that even if said BL Form No. 700-2A were considered in this appeal, it would not help petitioner's cause because the document is bereft of any information showing that petitioner has been in open, continuous, exclusive and notorious possession of the subject lot since June 12, 1945 or earlier.

Hence, respondent maintains that the CA properly reversed and set aside the trial court's ruling granting petitioner's application for land registration since petitioner failed to offer in evidence the necessary certification that the parcel of land applied for registration is alienable and disposable in character during the proceedings below. Petitioner also did not present any certification from the DENR or a certified copy of any land classification map in order to establish irrefutably the fact that the subject parcel of land is, in fact, alienable and disposable. Respondent claims that in the absence of such classification the land remains an unclassified land until it is released therefrom and rendered open to disposition.

Also, respondent avers that petitioner failed to present specific acts that would show the nature of her possession and that of her predecessors-in-interest. The trial court's decision merely relied on the testimony of petitioner and her witnesses regarding the transfer of possession of the subject property from one possessor to another without, however, adverting to the particulars of their respective possession thereof. To prove adverse

possession, it is not enough to simply declare one's possession and that of the petitioner's predecessors-in-interest to have been adverse, continuous, open, public, peaceful and in the concept of owner for the required number of years. The applicant should present specific acts that would show such nature of possession. Thus, according to respondent, petitioner has failed to positively establish a registrable title to the subject parcel of land.

Essentially, the main issue to be resolved is whether the CA erred in dismissing petitioner's application for registration of title.

Prefatorily, we address the issue raised by respondent that only questions of law may be raised in a petition for review on certiorari. Indeed, the principle is well established that this Court is not a trier of facts. Therefore, in an appeal by certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, only questions of law may be raised.<sup>28</sup> The distinction between a "question of law" and a "question of fact" is settled. There is a question of law when the doubt or difference arises as to what the law is on a certain state of facts, and the question does not call for an examination of the probative value of the evidence presented by the parties-litigants. On the other hand, there is a "question of fact" when the doubt or controversy arises as to the truth or falsity of the alleged facts. Simply put, when there is no dispute as to the facts, the question of whether the conclusion drawn therefrom is correct or not, is a question of law.<sup>29</sup> In *Republic v. Vega*,<sup>30</sup> the Court held that when petitioner asks for a review of the decision made by a lower court based on the evidence presented, without delving into their probative value but simply on their sufficiency to support the legal conclusions made, then a question of law is raised.

In the present case, there seems to be no dispute as to the facts, and the question presented before us calls for a review of the CA's conclusion that the documents and evidence presented by petitioner are insufficient to support her application for registration of title. Hence, the petition is properly filed.

Now, on the merits. Petitioner asserts that the land subject of her application has been declared alienable and disposable in 1925 and that her possession through her predecessors-in-interest started in 1929. However, after a careful examination of the evidence adduced by petitioner, we find no error on the part of the CA in dismissing petitioner's application for registration of title for the failure of petitioner to prove satisfactorily the requirements for registration provided under the law.

P.D. No. 1529 or the Property Registration Decree in relation to Section 48(b) of Commonwealth Act No. 141,<sup>31</sup> as amended by Section 4 of

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<sup>28</sup> *China Banking Corporation v. QBRO Fishing Enterprises, Inc.*, G.R. No. 184556, February 22, 2012, 666 SCRA 599, 605.

<sup>29</sup> *Republic v. Medida*, G.R. No. 195097, August 13, 2012, 678 SCRA 317, 324.

<sup>30</sup> G.R. No. 177790, January 17, 2011, 639 SCRA 541, 547.

<sup>31</sup> THE PUBLIC LAND ACT.

P.D. No. 1073<sup>32</sup> specifies those who are qualified to apply for registration of land. Section 14 of P.D. No. 1529 and Section 48(b) of Commonwealth Act No. 141, as amended provide thus:

SEC. 14. *Who may apply.* — The following persons may file in the proper Court of First Instance [now Regional Trial Court] an application for registration of title to land, whether personally or through their duly authorized representatives:

(1) Those who by themselves or through their predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain under a *bona fide* claim of ownership since June 12, 1945, or earlier.

X X X X

SEC. 48. The following described citizens of the Philippines, occupying lands of the public domain or claiming to own any such lands or an interest therein, but whose titles have not been perfected or completed, may apply to the Court of First Instance [now Regional Trial Court] of the province where the land is located for confirmation of their claims and the issuance of a certificate of title therefor, under the Land Registration Act, to wit:

X X X X

(b) Those who by themselves or through their predecessors-in-interest have been in the open, continuous, exclusive and notorious possession and occupation of alienable and disposable lands of the public domain, under a *bona fide* claim of acquisition or ownership, since June 12, 1945, except when prevented by war or force *majeure*. These shall be conclusively presumed to have performed all the conditions essential to a Government grant and shall be entitled to certificate of title under the provisions of this chapter.

Based on the above-quoted provisions, applicants for registration of title must establish and prove: (1) that the subject land forms part of the disposable and alienable lands of the public domain; (2) that the applicant and his predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the same; and (3) that his possession has been under a *bona fide* claim of ownership since June 12, 1945, or earlier.<sup>33</sup> Each element must necessarily be proven by no less than clear, positive and convincing evidence; otherwise the application for registration should be denied.<sup>34</sup>

Under the Regalian doctrine, all lands of the public domain belong to the State. The burden of proof in overcoming the presumption of State ownership of the lands of the public domain is on the person applying for

<sup>32</sup> EXTENDING THE PERIOD OF FILING APPLICATIONS FOR ADMINISTRATIVE LEGALIZATION (FREE PATENT) AND JUDICIAL CONFIRMATION OF IMPERFECT AND INCOMPLETE TITLES TO ALIENABLE AND DISPOSABLE LANDS OF THE PUBLIC DOMAIN UNDER CHAPTER VII AND CHAPTER VIII OF COMMONWEALTH ACT NO. 141, AS AMENDED FOR ELEVEN (11) YEARS COMMENCING JANUARY 1, 1977.

<sup>33</sup> *Republic v. Aboitiz*, G.R. No. 174626, October 23, 2013, p. 7.

<sup>34</sup> *Republic v. Belmonte*, G.R. No. 197028, October 9, 2013, p. 7.



registration, who must prove that the land subject of the application is alienable and disposable. To overcome this presumption, incontrovertible evidence must be presented to establish that the land subject of the application is alienable and disposable.<sup>35</sup>

To prove that the land subject of the application for registration is alienable, an applicant must establish the existence of a positive act of the government such as a presidential proclamation or an executive order; an administrative action; investigation reports of Bureau of Lands investigators; and a legislative act or statute. The applicant may secure a certification from the government that the lands applied for are alienable and disposable, but the certification must show that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. The applicant must also present a copy of the original classification of the land into alienable and disposable, as declared by the DENR Secretary or as proclaimed by the President.<sup>36</sup>

To comply with the first requisite, petitioner submitted a CENRO Certification stating that Lot 4342, Cad-237 located in Patag, Cagayan de Oro City falls within the alienable and disposable area under Project No. 8, Block I. Petitioner also submitted LC Map No. 543 which was certified and approved on December 31, 1925. We, however, find that the attached certification is inadequate to prove that the subject lot is alienable and disposable. We held in *Republic v. T.A.N. Properties, Inc.*<sup>37</sup> that a CENRO certification is insufficient to prove the alienable and disposable character of the land sought to be registered. The applicant must also show sufficient proof that the DENR Secretary has approved the land classification and released the land in question as alienable and disposable. We ruled in *Republic v. T.A.N. Properties, Inc.* that:

x x x it is not enough for the PENRO or CENRO to certify that a land is alienable and disposable. The applicant for land registration must prove that the DENR Secretary had approved the land classification and released the land of the public domain as alienable and disposable, and that the land subject of the application for registration falls within the approved area per verification through survey by the PENRO or CENRO. In addition, the applicant for land registration must present a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records. These facts must be established to prove that the land is alienable and disposable. Respondents failed to do so because the certifications presented by respondent do not, by themselves, prove that the land is alienable and disposable.<sup>38</sup>

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<sup>35</sup> *Republic v. Dela Paz*, G.R. No. 171631, November 15, 2010, 634 SCRA 610, 619.

<sup>36</sup> *Victoria v. Republic*, G.R. No. 179673, June 8, 2011, 651 SCRA 523, 529-530.

<sup>37</sup> G.R. No. 154953, June 26, 2008, 555 SCRA 477.

<sup>38</sup> *Id.* at 489.

Thus, as it now stands, aside from the CENRO certification, an application for original registration of title over a parcel of land must be accompanied by a copy of the original classification approved by the DENR Secretary and certified as a true copy by the legal custodian of the official records in order to establish that the land is indeed alienable and disposable.<sup>39</sup>

In *Republic v. Medida*,<sup>40</sup> the Court explained why a CENRO or PENRO certification cannot be considered *prima facie* evidence of the facts stated therein:

Public documents are defined under Section 19, Rule 132 of the Revised Rules on Evidence as follows:

- (a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
- (b) Documents acknowledged before a notary public except last wills and testaments; and
- (c) Public records, kept in the Philippines, of private documents required by law to be entered therein.

Applying Section 24 of Rule 132, the record of public documents referred to in Section 19(a), when admissible for any purpose, may be evidenced by an official publication thereof **or by a copy attested by the officer having legal custody of the record, or by his deputy** x x x. *The CENRO is not the official repository or legal custodian of the issuances of the DENR Secretary declaring public lands as alienable and disposable. The CENRO should have attached an official publication of the DENR Secretary's issuance declaring the land alienable and disposable.*

Section 23, Rule 132 of the Revised Rules on Evidence provides:

Sec. 23. *Public documents as evidence.*—Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts stated therein. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

*The CENRO and Regional Technical Director, FMS-DENR, certifications [do] not fall within the class of public documents contemplated in the first sentence of Section 23 of Rule 132. The certifications do not reflect “entries in public records made in the performance of a duty by a public officer,” x x x. The certifications are not the certified copies or authenticated reproductions of original records in the legal custody of a*

<sup>39</sup> *Republic v. Medida*, supra note 29, at 328.

<sup>40</sup> *Id.*

government office. The certifications are not even records of public documents. x x x<sup>41</sup>

Moreover, the CENRO certification attached by petitioner to her petition deserves scant consideration since it was not presented during the proceedings before the trial court or while the case was pending before the appellate court. Petitioner only presented the said certification for the first time before this Court. The genuineness and due execution of the said document had not been duly proven in the manner required by law.<sup>42</sup> Also, generally, additional evidence is allowed when it is newly discovered, or where it has been omitted through inadvertence or mistake, or where the purpose of the evidence is to correct evidence previously offered.<sup>43</sup> In the present case, petitioner did not offer any explanation why the CENRO certification was not presented and submitted during the proceedings before the trial court to justify its belated submission to this Court.

As to the second and third requisites, we agree with the appellate court that petitioner failed to establish that she and her predecessors-in-interest have been in open, continuous, exclusive and notorious possession and occupation of the subject land on or before June 12, 1945. Based on the records, the earliest evidence of possession that petitioner and her predecessor-in-interest Mamerta Tan had over the subject property was only in 1975 when Mamerta Tan purchased the subject lot from Teresita Tan. While Mamerta Tan testified that she purchased the property from Teresita, the records are bereft of any evidence to show Teresita's mode of acquisition of ownership over the subject lot or from whom she acquired the property and when her possession of the subject lot had commenced.

In addition, Honesto Velez, City Assessor of Cagayan de Oro City, merely testified on the tax declarations issued to certain persons including petitioner and Mamerta Tan as enumerated in the Land History Card of Cadastral Lot 4342 but his testimony did not prove their possession and occupation over the subject property. What is required is open, exclusive, continuous and notorious possession by the applicant and her predecessors-in-interest, under a *bona fide* claim of ownership, since June 12, 1945 or earlier.<sup>44</sup> Here, it is not shown by clear and satisfactory evidence that petitioner by herself or through her predecessors-in-interest had possessed and occupied the land in an open, exclusive, continuous and notorious manner since June 12, 1945 or earlier.

Notably, petitioner attempted to convince this Court that Potenciano Abragan is her predecessor-in-interest and was in possession of the subject property even before 1929. However, there was absolutely no evidence proffered by petitioner that she derived her title to the property from Potenciano Abragan. Moreover, BL Form No. 700-2A attached by

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<sup>41</sup> Id. at 328-329.

<sup>42</sup> *Republic v. Gomez*, G.R. No. 189021, February 22, 2012, 666 SCRA 669, 677.

<sup>43</sup> *Republic v. Sandiganbayan (Fourth Division)*, G.R. No. 152375, December 13, 2011, 662 SCRA 152, 187, citing *Lopez v. Liboro*, 81 Phil. 429 (1948).

<sup>44</sup> *Republic v. Dela Paz*, supra note 35, at 623.


petitioner to her present petition and sought to be submitted as additional evidence, does not in any way prove that Potenciano Abragan was in possession and occupation of the property before 1929. At best, it merely shows that it was Potenciano who requested for an original survey of the lot. More importantly, just like the CENRO certification, BL Form No. 700-2A could not be given any evidentiary weight and value since it was not presented before the trial court and its genuineness and due execution has not been duly proven. It must be emphasized that any evidence which a party desires to submit for the consideration of the court must formally be offered by the party; otherwise, it is excluded and rejected.<sup>45</sup>

In fine, since petitioner failed to prove that (1) the subject property was classified as part of the disposable and alienable land of the public domain; and (2) she and her predecessors-in-interest have been in open, continuous, exclusive, and notorious possession and occupation thereof under a *bona fide* claim of ownership since June 12, 1945 or earlier, her application for registration of title of the subject property under P.D. No. 1529 should be denied.

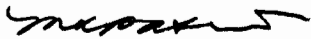
**WHEREFORE**, the petition is **DENIED**. The Decision dated March 11, 2010 and Resolution dated May 20, 2010 of the Court of Appeals in CA-G.R. CV No. 00319-MIN are **AFFIRMED**.


With costs against the petitioner.

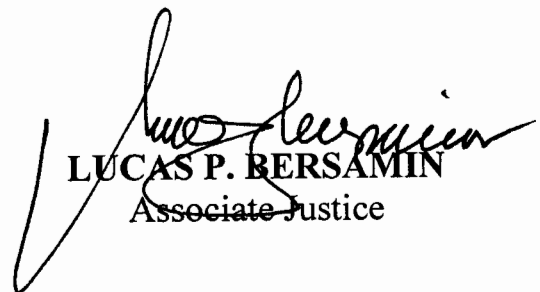
**SO ORDERED.**

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

WE CONCUR:

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

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<sup>45</sup> *Heirs of Pedro Pasag v. Spouses Parocha*, 550 Phil. 571, 582 (2007).



**BIENVENIDO L. REYES**  
Associate Justice

### CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice

